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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,137	07/08/2004	Keiko Kashihara	255573US0PCT	1475

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EXAMINER

HENDRICKS, KEITH D

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/500,137

Applicant(s)

KASHIHARA ET AL.

Examiner

Keith Hendricks

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07-2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7 are rejected under 35 U.S.C. 102(a) as being anticipated by Stolt et al. (WO 01/58286).

Stolt et al. disclose a process “to improve the firmness of” a fruit or vegetable foodstuff, wherein the foodstuff is contacted with a liquid medium comprising calcium ions and pectinmethylesterase, at a reduced pressure so as to infuse the liquid medium (abstract). Page 3, lines 15-29 describe various foodstuffs, where “preferably, the foodstuff is selected from berries, fruits or vegetables”, where examples of vegetables include tomatoes, potatoes, beans, squash and pumpkin. “Before treatment, the fresh fruits and vegetables are cleaned and optionally peeled, cut and washed” (pg. 4, ln. 13-14). Various calcium compounds may be used, including calcium chloride and calcium glucanate, wherein the concentration of the calcium salts may be in the range of 0.5 to 2 wt. % (pg. 4, ln. 24-34). The treatment is carried out at a temperature of from about 5 to 60°C (pg. 6, ln. 8; or pg. 7, ln. 12-17). The dosage of the enzyme is provided at page 5, second paragraph.

Regarding the vacuum (reduced pressure) treatment described by the reference, it is noted that the claims still encompass this step within the procedure. Furthermore, page 8 of the instant specification states that “vacuum treatment may also be carried out to conduct the entire treatment more effectively in a shorter time,” and thus applicant’s claims fully read upon the disclosed invention of Stolt et al.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stolt et al.

Stolt et al. is taken as cited above. The reference does not specifically disclose a "heat-cooking" step with regard to the pumpkin or other vegetables. However, cooking of pumpkin vegetable matter has been the prominent use of said pumpkin for many years, and thus it would have been obvious to one of ordinary skill in the art to have heated and cooked the resultant pumpkin from Stolt et al. within any of the known procedures in the art involving cooking pumpkin. This would not have involved an inventive or patentable step in the art.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Hills et al. (US PAT 2,534,263) describe essentially the same method as Stolt et al., without the vacuum treatment. Various fruit or vegetable slices may be treated according to this invention, using a solution of calcium salts and pectase (i.e. pectin methyl esterase). Pumpkin is not specifically disclosed; however, this reference demonstrates that the method of Stolt et al. may be successfully carried out without the pressure treatment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith Hendricks whose telephone number is (571) 272-1401. The examiner can normally be reached on M-F (8:30am-6pm); First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


KEITH HENDRICKS
PRIMARY EXAMINER